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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,198	10/27/2000	Suhail Nanil	004906.P003	6605
7590	02/08/2005		EXAMINER	
Daniel M DeVos Blakely Sokoloff Taylor & Zafman LLP 12400 Wilshire Boulevard 7th Floor Los Angeles, CA 90025			SAM, PHIRIN	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/699,198	NANIL, SUHAIL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Phirin Sam	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 25 August 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 10-13,15-21,23-30,32,34-40,42-44 and 48-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 19-21,23-30,32,34,35,42-44,48-54 and 63-77 is/are allowed.
- 6) Claim(s) 12,13,16,18,36,55,58,59 and 61 is/are rejected.
- 7) Claim(s) 10,11,15,17,37-40,56,57,60 and 62 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 August 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**PHIRIN SAM**  
**PRIMARY EXAMINER**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>083004</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### *Claims Cancellation*

1. The request for cancel claims 1-9, 14, 22, 31, 33, 41, 45-47 without prejudice or disclaimer has been noticed and entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 13, 12, 18, 16, 36, 55, 58, 59, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,366,561 (hereinafter called “Bender”) in view of Redback, release 3.1 (hereinafter called “Redback”).

**Regarding claims 13, 36, and 55,** Bender discloses a method comprising:

- (a) encapsulating an Ethernet frame in Layer 2 Tunneling Protocol (L2TP) (see Fig. 6B, element 272, col. 8, lines 51-54);
- (b) transmitting the L2TP encapsulated Ethernet frame over a network (see Fig. 6B, col. 8, lines 56-61);
- (c) decapsulating the Ethernet frame from L2TP (see Fig. 6B, element 320A, col. 8, lines 61-67);

Bender does not disclose performing session fail retry. However, Redback discloses the performing session fail retry (see page 5-95, under sub-title “Enable Ethernet Sessions Retry over L2TP”. Where it starts with “To enable the creation of Ethernet session over L2TP, ... No

attempt is made to create a connection until data begins to come through over the circuit/port").

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the performing session fail retry teaching by Redback with Bender. The motivation for doing so would have been to provide to create the Ethernet session over L2TP. Therefore, it would have been obvious to combine Redback and Bender to obtain the invention as specified in the claims 13, 36, and 55.

**Regarding claims 12 and 58,** Bender discloses all the limitations. On the other hand Bender does not disclose transmitting a MAC address. However, Redback discloses the transmission of the MAC address (see page 5-94, starting at lines "It is important to note that if more than one Ethernet session ... to map IP addresses to physical MAC addresses". At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the transmission of the MAC address teaching by Redback with Bender. The motivation for doing so would have been to provide to identify at the media access control layer in the network. Therefore, it would have been obvious to combine Redback and Bender to obtain the invention as specified in the claims 12 and 58.

**Regarding claims 16, 18, 59, and 61,** Bender discloses a method comprising:

- (a) establishing a Layer 2 Tunneling Protocol (L2TP) tunnel capable of carrying an Ethernet frame (see Fig. 6A and 6B, element 272, col. 8, lines 24-32, 51-54). Where element NAS setup the connection with 124 for transport Ethernet packet;
- (b) establishing an L2TP session to carry the Ethernet frame (see Fig. 6B, element 272, col. 8, lines 51-57). Where NAS 272 setup the L2TP session with router 260 and encapsulates packet

into a PPP packet, which further encapsulates into an L2TP packet as discloses in column 8, lines 51-56;

(c) transmitting the Ethernet frame in L2TP encapsulation over the L2TP session (see Fig. 6B, col. 8, lines 56-60);

(d) decapsulating the frame (see Fig. 6B, element 320A, col. 8, lines 61-66);

Bender does not disclose performing session fail retry. However, Redback discloses the performance of the session fail retry (see page 5-95, under sub-title “Enable Ethernet Sessions Retry over L2TP”. Where it starts with “To enable the creation of Ethernet session over L2TP, ... No attempt is made to create a connection until data begins to come through over the circuit/port”). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the performing session fail retry teaching by Redback with Bender. The motivation for doing so would have been to provide to create the Ethernet session over L2TP. Therefore, it would have been obvious to combine Redback and Bender to obtain the invention as specified in the claims 16, 18, 59, and 61.

***Allowable Subject Matter***

4. Amended claims 19, 23-27, 32, 34, 35, 42-44, claims 20, 21, 28-30, 48-54, and 63-77 are allowed.

5. Claims 10, 11, 15, 17, 37-40, 56, 57, 60, and 62 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) Comstock (U.S. Patent 6,452,920) discloses mobile terminating L2TP using mobile IP data.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phirin Sam whose telephone number is (571) 272-3082. The examiner can normally be reached on Mon-Fri, 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T Nguyen can be reached on (571) 272 - 3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully submitted,

Date: February 3, 2005



PHIRIN SAM  
PRIMARY EXAMINEE